

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-1674

DATE OF INTRODUCTION:

January 31, 2002

SPONSOR:

Assemblyman Cohen

DATE OF RECOMMENDATION:

April 30, 2002

IDENTICAL BILL:

COMMITTEE:

Assembly Consumer Affairs

DESCRIPTION:

This Bill provides for a sale and use tax exemption for the retail purchase of books.

ANALYSIS:

The Sales and Use Tax Act imposes a tax of 6% upon the receipts from every sale of tangible personal property, except as otherwise provided. The rationale behind this bill is unclear. Presumably it is to encourage people to read. But there are no sound policy reasons why there should be an exemption for all books. There are already exemptions for school textbooks and equipment used by commercial printing businesses in the Sales and Use Tax Act. Since many books are purchased essentially for entertainment purposes, it may be poor tax policy to exempt books, while still imposing tax on certain essential services, such as telephone service and energy purchases.

The bill's broad language leads itself to many administrative and enforcement problems. It is not clear what printed material the exemption applies to. Such ambiguity leads to subjective interpretation rendering the bill difficult to administer and enforce.

The Commission does not believe that sales tax exemptions should be used as a means of encouraging socially desirable behavior. Consumers are not going to be either encouraged or economically assisted by being relieved of the obligation to pay 6% sales tax. Thus, the bill as enacted would seem to do nothing to promote reading by encouraging people to purchase books.

The exemption does not meet the test of simplicity. Simplicity requires that sales tax legislation be drafted in such a manner to allow vendors to ascertain their tax collection responsibilities simply by reviewing the provisions of the proposed legislation itself, without resort to interpretative regulations that could in themselves add to the complexity of administration. The proposed bill as written is not clear on what a “book” is or further identifies what qualifies for this exemption. The bill also requires interpretation of “books on tape”. In the absence of specific statutory direction on this topic, there would be significant confusion on what purchases would qualify for this exemption.

There are no strong tax policy reasons to support this exemption. Enacting special exemptions for purchases of socially desirable merchandise tends to lead to an increased demand for similar exemptions for other useful, necessary, or politically favored purchases.

In addition, the expansion of the exemption for newspapers, magazines and periodicals to include books would further alter the broad-based nature of the sales and use tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and “fair”. When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. An exemption for books would save an individual purchaser a fairly insignificant sum every year. However, the cumulative loss of revenue to the State could be substantial. This leaves the State to find other means of generating the revenue lost as a result of an expanded exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 0

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